

1 MARC E. ROHATINER (State Bar No. 82709)  
mrohatiner@wrslawyers.com  
2 JOHNNY WHITE (State Bar No. 269306)  
jwhite@wrslawyers.com  
3 WOLF, RIFKIN, SHAPIRO, SCHULMAN & RABKIN, LLP  
11400 West Olympic Boulevard, 9<sup>th</sup> Floor  
4 Los Angeles, California 90064-1582  
Telephone: (310) 478-4100  
5 Facsimile: (310) 479-1422

6 Attorneys for Attorneys for  
7 STRATEGIC PROPERTIES OF NORTH  
AMERICA, LLC, a Delaware limited liability  
company, and SAUL KUPERWASSER

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA, SACRAMENTO DIVISION

12 JULIUS CHERRY, an individual; and  
GERALD GLAZER, an individual,

## Plaintiffs,

15                          vs.  
16 STRATEGIC PROPERTIES OF NORTH  
17 AMERICA, LLC, a Delaware limited  
liability company; SAUL  
KUPERWASSER, an individual; and  
DOES 1-20, inclusive.,

## Defendants.

**Case No.**

**DEFENDANTS STRATEGIC  
PROPERTIES OF NORTH AMERICA,  
LLC AND SAUL KUPERWASSER'S  
NOTICE OF REMOVAL OF CIVIL  
ACTION TO THE UNITED STATES  
DISTRICT COURT UNDER 28 U.S.C.  
§§ 1441(b) AND 1332 [DIVERSITY  
JURISDICTION]**

Trial Date: None

1 **TO PLAINTIFFS, THEIR ATTORNEYS OF RECORD, THE CLERK OF  
2 THE ABOVE-ENTITLED COURT AND THE HONORABLE UNITED  
3 STATES DISTRICT JUDGE, AS ASSIGNED:**

4 PLEASE TAKE NOTICE that Defendants Strategic Properties of North  
5 America, LLC, and Saul Kuperwasser (“Removing Defendants”) submit this Notice  
6 of Removal based on diversity jurisdiction pursuant to 28 U.S.C. §§ 1441(b) and  
7 1332. The action is hereby removed to this Court from the state court, as more  
8 particularly set forth below.

9 **I. THE STATE COURT ACTION**

10 On April 29, 2022, Plaintiffs commenced a civil action in the Superior Court  
11 of the State of California, for the County of Sacramento, Case No. 34-2022-  
12 00319001 (the “State Court Action”). A copy of the complaint filed in the State  
13 Court Action is attached hereto as Exhibit A. Attached as Exhibits B and C are the  
14 other documents filed in the State Court Action which are in Removing Defendants’  
15 possession. Removing Defendants have not appeared in the State Court Action.

16 **II. DIVERSITY JURISDICTION**

17 Cases filed in state court may be removed to federal district court where the  
18 district courts have original subject matter jurisdiction over the case. 28 U.S.C. §  
19 1441(a). District courts “have original jurisdiction of all civil actions where the  
20 matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and  
21 costs, and is between. . . citizens of different States 28 U.S.C. § 1332(a)(1).

22 This Court has jurisdiction of this case under 28 U.S.C. § 1332(a)(1) because  
23 the amount in controversy in the State Court Action exceeds \$75,000.00 and there is  
24 complete diversity of citizenship between the parties. The Complaint seeks  
25 damages in excess of \$500,000.00. Plaintiffs are citizens of California as alleged in  
26 the State Court Action (Complaint, ¶ 8) Defendant Strategic Properties of North  
27 America, LLC is a corporate entity that was formed in Delaware and has its  
28 principal place of business in New Jersey. Defendant Saul Kuperwasser is a citizen

1 of New Jersey. He has been domiciled in the State of New Jersey at all relevant  
2 times, i.e. the time when the State Court Action was filed and the time of this  
3 removal notice. None of the defendants are citizens of California.

4 **III. TIMELINESS**

5 This Notice is timely, pursuant to 28 U.S.C. § 1446(b), because Removing  
6 Defendants have not been validly served to date. In California, out of state  
7 defendants may be served by certified mail, “requiring a return receipt. Service of a  
8 summons by this form of mail is deemed complete on the 10<sup>th</sup> day after such  
9 mailing.” California Code of Civil Procedure, § 415.40. Defendants received a copy  
10 of the lawsuit in the mail on or about May 9, 2022. It was not served by certified  
11 mail. As of the date hereof, service has not been validly effected and the 30-day  
12 deadline for removal has not yet commenced to run. *Destfino v. Reiswig, et al.*, 630  
13 F.3d 952, 956 (9th Cir. Cal. 2011) (“we hold that each defendant is entitled to thirty  
14 days to exercise his removal rights after being served”). Thus, all of the Removing  
15 Defendants are timely exercising their right to remove, and none of them have  
16 appeared in the State Court Action.

17 All defendants join in this Notice of Removal.

18 **IV. OTHER PERTINENT INFORMATION**

19 A. Pursuant to 28 U.S.C. § 1446(a), Removing Defendants file this Notice  
20 in the District Court of the United States for the district and division within which  
21 the State Court Action is pending. As such, this case is being removed to the United  
22 States District Court for the Eastern District of California, because the State Court  
23 Action is pending in Sacramento County.

24 B. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice with its  
25 attachments will promptly be served on plaintiff in the State Court Action, and  
26 notice thereof will be filed with the clerk of the Sacramento County Superior Court.

27 / / /

28 / / /

1 WHEREFORE, Removing Defendants hereby removes Sacramento County  
2 Superior Court Case No. 34-2022-00319001 to the United States District Court for  
3 the Eastern District of California.

4  
5 DATED: June 8, 2022

Respectfully submitted,

6 WOLF, RIFKIN, SHAPIRO,  
7 SCHULMAN & RABKIN, LLP

8  
9 By: /s/ Johnny White

10 JOHNNY WHITE

11 Attorneys for Attorneys for STRATEGIC  
12 PROPERTIES OF NORTH AMERICA, LLC, a  
13 Delaware limited liability company; and SAUL  
14 KUPERWASSER

15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28